2020

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued December 2020

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH 2020 REGULAR SESSION

PUBLISHED BY AUTHORITY OF
THE LEGISLATURE

SUPPLEMENTING

Volume 16

Title 75 (Chapters 1 to 2)

(As Revised 2016)

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By the Editorial Staff of the Publisher

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ISBN 978-0-327-09628-3 (Code set)
ISBN 978-1-5221-0177-2 (Volume 16)

Matthew Bender & Company, Inc.

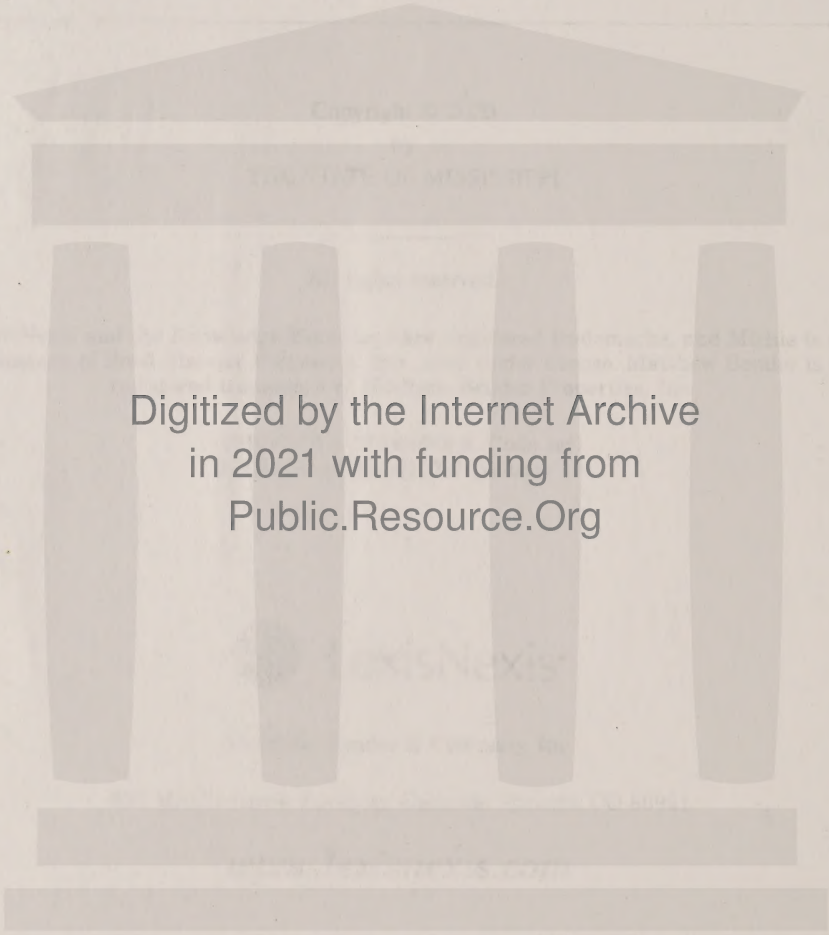
555 Middle Creek Parkway, Colorado Springs, CO 80921

www.lexisnexis.com

(Pub. 44510)

User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



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PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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December 2020 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

There are no new sections added in this supplement.

MISSISSIPPI CODE
1972
ANNOTATED
VOLUME SIXTEEN

TITLE 75.

REGULATION OF TRADE, COMMERCE AND INVESTMENTS

CHAPTER 1.

UNIFORM COMMERCIAL CODE — REVISED ARTICLE 1. GENERAL PROVISIONS

PART 2.

GENERAL DEFINITIONS AND PRINCIPLES OF INTERPRETATION.

§ 75-1-201. General definitions.

JUDICIAL DECISIONS

I. UNDER CURRENT LAW.

3. Buyer in ordinary course of business.

Bank could not recover from the nondiverse grain terminals where the terminals had purchased the soybeans and corn from a company that purchased farm products from farmers, and as a result. they qualified as buyers in the ordinary course of business and had not bought farm products from a person engaged in farming operations. Guar. Bank & Trust Co. v. FGDI Div. of Agrex, Inc., — F. Supp. 3d —, 2014 U.S. Dist. LEXIS 41985 (N.D. Miss. Mar. 28, 2014).

PART 3.

TERRITORIAL APPLICABILITY AND GENERAL RULES.

§ 75-1-305. Remedies to be liberally administered.

JUDICIAL DECISIONS

I. UNDER CURRENT LAW.

1. Aggrieved party.

Cattle feedlot business lacked a claim under the statute against a bank with regards to a bank customer's alleged check kiting scheme because the negotiable instruments chapter did not con-

template extending liability to any party who bore any loss as a result of a depository bank's negligence in regard to the handling of a negotiable instrument, and the feedlot was not an "aggrieved party" under this provision, nor was the feedlot a "party" to the negotiable instruments as defined in Miss. Code Ann. § 75-3-103(a)(10). Midwest Feeders, Inc. v. Bank of Franklin, 886 F.3d 507, 2018 U.S. App. LEXIS 7670 (5th Cir. Miss. 2018).

CHAPTER 2.

UNIFORM COMMERCIAL CODE — SALES

PART 1.

SHORT TITLE, GENERAL CONSTRUCTION AND SUBJECT MATTER.

§ 75-2-101. Short title.

JUDICIAL DECISIONS

2. Relation to federal law.

Although the Mississippi Motor Vehicle Warranty Enforcement Act does share some characteristics with the Magnuson-Moss Warranty Act, when the statutes as a whole are compared to the Magnuson-Moss Act, the Mississippi Uniform Commercial Code (UCC) is most analogous. Therefore, a trial court erred by finding that the claims filed by two vehicle purchasers were barred by the statute of limitations because a six-year limitations period under the UCC applied. Broome v. GM, LLC, 145 So. 3d 645, 2014 Miss. LEXIS 408 (Miss. 2014).

§ 75-2-104. Definitions: "merchant"; "financing agency"; "between merchants."

JUDICIAL DECISIONS

3. Merchants.

4. —Farmers as.

Court denied summary judgment on a Chapter 7 debtor's claim that a creditor's adversary proceeding alleging that the debtor owed a debt that was nondischargeable under 11 U.S.C.S. § 523 because he submitted a false financial statement to induce the creditor to extend credit was barred by the Mississippi Statute of Frauds, Miss. Code Ann. § 75-2-201, because there were issues of fact concerning the question of whether the debtor, a farmer, was a "merchant" within the meaning of Miss. Code Ann. § 75-2-104, and the amount of debt the debtor owed. In re Kent, 554 B.R. 131, 2016 Bankr. LEXIS 2626 (Bankr. N.D. Miss. 2016).

PART 2.

FORM, FORMATION AND READJUSTMENT OF CONTRACT.

§ 75-2-201. Formal requirements; statute of frauds.

JUDICIAL DECISIONS

ANALYSIS

B. Scope.

8. Mixed sales and service.

C. Writing.

24. Signature.

D. Confirmation as Between Merchants.

28. —Farmers; "merchants."

B. Scope.

8. Mixed sales and service.

Contractor's breach of contract action against a subscontractor's successor-in-interest and its owner did not fall under the statute of frauds because the owner was performing under the original contract, a fact that he explicitly discussed with the contractor's president. Gecko Outdoor Prods. Corp. v. Casablanca Constr., Inc., 250 So. 3d 508, 2018 Miss. App. LEXIS 313 (Miss. Ct. App. 2018).

C. Writing.

24. Signature.

Circuit court did not err in finding that emails between the parties did not constitute a valid, binding, written contract; the email sent by appellee stating, "Ok. Let's do it," did not contain a signature, and merely sending an email does not satisfy the signature requirement under Miss. Code Ann. § 75-12-3(8). Furthermore, an email that states, "Sent from my iPhone," does not indicate that the sender intended to sign the record. Parish Transp. LLC v. Jordan Carriers Inc., — So. 3d —, 2020 Miss. App. LEXIS 479 (Miss. Ct. App. Aug. 25, 2020).

D. Confirmation as Between Merchants.

28. —Farmers; "merchants."

Court denied summary judgment on a Chapter 7 debtor's claim that a creditor's adversary proceeding alleging that the debtor owed a debt that was nondischargeable under 11 U.S.C.S. § 523 because he submitted a false financial statement to induce the creditor to extend credit was barred by the Mississippi Statute of Frauds, Miss. Code Ann. § 75-2-201, because there were issues of fact concerning the question of whether the debtor, a farmer, was a "merchant" within the meaning of Miss. Code Ann. § 75-2-104, and the amount of debt the debtor owed. In re Kent, 554 B.R. 131, 2016 Bankr. LEXIS 2626 (Bankr. N.D. Miss. 2016).

PART 7.

REMEDIES.

§ 75-2-718. Liquidation or limitation of damages; deposits.

JUDICIAL DECISIONS

2. Liquidated damages.

Damage clause in a lease-purchase contract was not an unreasonable liquidated-damages clause because the contract reflected the parties' intent, in the event of specific breaches or failures, to recover

their estimated damages through delineated contract provisions and the damages, which were estimated in advance by the parties, were not unreasonable. Henderson v. Blount, 247 So. 3d 328, 2018 Miss. App. LEXIS 233 (Miss. Ct. App. 2018).

§ 75-2-725. Statute of limitations in contracts for sale.

JUDICIAL DECISIONS

4. Applicability to particular types of actions.

Although the Mississippi Motor Vehicle Warranty Enforcement Act does share some characteristics with the Magnuson-Moss Warranty Act, when the statutes as a whole are compared to the Magnuson-Moss Act, the Mississippi Uniform Commercial Code (UCC) is most analogous. Therefore, a trial court erred by finding that the claims filed by two vehicle purchasers were barred by the statute of limitations because a six-year limitations period under the UCC applied. Broome v. GM, LLC, 145 So. 3d 645, 2014 Miss. LEXIS 408 (Miss. 2014).